

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KHALID McBETH and CARMINE CASCONI,
individually and on behalf of all other persons
similarly situated who were employed by
GABRIELLI TRUCK SALES, LTD.;
GABRIELLI TRUCK SALES OF
CONNECTICUT, L.L.C.; GABRIELLI TRUCK
SERVICE, INC.; and GABRIELLI FORD
TRUCK SALES & SERVICE INC.; and/or any
other entities affiliated with or controlled by
GABRIELLI TRUCK SALES, LTD.;
GABRIELLI TRUCK SALES OF
CONNECTICUT, L.L.C.; GABRIELLI TRUCK
SERVICE, INC.; GABRIELLI FORD TRUCK
SALES & SERVICE INC.; ARMANDO
GABRIELLI, and/or AMEDEO GABRIELLI,

Plaintiffs,

-against-

GABRIELLI TRUCK SALES, LTD.;
GABRIELLI TRUCK SALES OF
CONNECTICUT, L.L.C.; GABRIELLI TRUCK
SERVICE, INC.; and GABRIELLI FORD
TRUCK SALES & SERVICE INC.;
ARMANDO GABRIELLI, AMEDEOA
GABRIELLI, and/or any other entities affiliated
with or controlled by GABRIELLI TRUCK
SALES, LTD.; GABRIELLI TRUCK SALES
OF CONNECTICUT, L.L.C.; GABRIELLI
TRUCK SERVICE, INC.; GABRIELLI FORD
TRUCK SALES & SERVICE INC.;
ARMANDO GABRIELLI, and/or AMEDEO
GABRIELLI,

Defendants.
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FILED
IN CLERK'S OFFICE
DISTRICT COURT E D N Y

★ JAN 14 2010 ★

LONG ISLAND OFFICE

09 cv 4112 (LDW) (ETB)

**JOINT REPORT AND
DISCOVERY PLAN
PURSUANT TO RULE 26(f)**

Plaintiffs commenced this lawsuit seeking allegedly unpaid overtime wages under the Fair Labor Standards Act ("FLSA") and the New York Labor Law. Plaintiffs seek to prosecute their FLSA claims as a collective action under 29 U.S.C. § 216(b). Plaintiffs seek to prosecute

their claims under New York law as a class action under Fed. R. Civ. P. 23. In accordance with Fed. R. Civ. P. 26(f) and this Court's Order dated September 29, 2009, the parties have met and conferred, and hereby jointly submit the following proposed schedule for discovery and the conduct of this litigation:

1. Initial disclosures under Fed. R. Civ. P. 26(a)(1) shall be served on or before January 14, 2010.

2. Initial interrogatories and requests for production of documents shall be served on or before January 29, 2010.

3. Responses to initial interrogatories and requests for production of documents shall be served within 30 days following service thereof. Upon the parties' agreement (which shall not be unreasonably withheld), this deadline may be extended until and including March 18, 2010.

4. All pre-certification discovery shall be completed on or before April 16, 2010.

5. Any motion to amend pleadings, any motion to join parties, any motion for collective-action status, and any motion for class certification shall be filed on or before May 14, 2010.

6. If the Court determines that this case is to proceed as a collective action and/or a class action, then the Court shall set a deadline for the completion of further discovery.

7. The deadline for seeking approval to file any motion for summary judgment shall be 30 days after the deadline for completion of all discovery.

8. The deadline for submission of the pre-trial order shall be 60 days after the later of: (a) the deadline for completion of all discovery; or (b) the date upon which the Court rules on any motion for summary judgment.

All fact discovery shall
be completed by 10/29/10
All expert discovery by 12/31/10

9. Unless the parties agree otherwise in a particular instance, electronically stored information shall be produced in the form in which the producing party regularly retains it.

10. In the event that any materials subject to the attorney-client privilege and/or attorney's work product privilege are inadvertently produced, such production shall not constitute a waiver of any applicable privilege. The receiving party shall immediately return such materials to the producing party without retaining copies thereof.

Respectfully submitted,

ATTORNEYS FOR PLAINTIFFS

Dated: January 8, 2010

By: /s/
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-and-

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ATTORNEYS FOR DEFENDANTS

Dated: January 11, 2010

By: /s/
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SO ORDERED on this 14 day of January 2010.

/s/ E. Thomas Boyle, U.S.M.J.
UNITED STATES MAGISTRATE JUDGE